

BEFORE THE
POSTAL REGULATORY COMMISSION
WASHINGTON, D.C. 20268-0001

TRANSFER OF PARCEL POST TO THE
COMPETITIVE PRODUCT LIST

Docket No. MC2012-13

REPLY COMMENTS OF THE UNITED STATES POSTAL SERVICE

(June 15, 2012)

In Order No. 1328,¹ the Commission solicited comments on the Request of the United States Postal Service (Postal Service) to Transfer Parcel Post to the Competitive Product List. Mr. David Popkin (Mr. Popkin) submitted his initial comments on May 30, 2012, and the Public Representative submitted his comments on May 31, 2012. The Postal Service hereby provides its reply comments.²

The Public Representative finds that it is “fair to conclude that in the ground package retail market, the Parcel Post product is not market dominant...”³ Nevertheless, the Public Representative claims that “the preferable outcome would be to...maintain the product as market dominant.”⁴

¹ Order No. 1328, Transfer of Parcel Post to the Competitive Product List, PRC Docket No. MC2012-13 (May 1, 2012).

² The Postal Service would like to thank the Commission for its expeditious review of this Request. The Postal Service hopes that the Commission will continue this pace of review, which, if approved, will allow the Postal Service to incorporate any necessary Parcel Post price increase into its November filing of competitive price changes. This price change is generally approved by the Governors at its September meeting.

³ Public Representative Comments, Transfer of Parcel Post to the Competitive Product list, PRC Docket No. MC2012-13, at 2 (May 31, 2012).

⁴ *Id.* at 12.

Similarly, Mr. Popkin raises several concerns about the Postal Service's request, including his belief that Parcel Post will not face competition in rural areas.⁵

The Postal Service first addresses the argument that Parcel Post will not face significant competition in rural areas, which is discussed by both the Public Representative and Mr. Popkin. The remainder of this pleading addresses several additional arguments raised by the Public Representative or Mr. Popkin.

I. The Public Representative and Mr. Popkin are Mistaken in Asserting that Parcel Post will not Face Competition in Rural Areas.

The Public Representative claims that “[t]he relatively limited outlets of UPS and FedEx in certain rural areas virtually eliminates them from competition in that segment of the market.”⁶ The Public Representative goes on to conclude that “[t]here is no evidence that the Parcel Post product purchased by individual consumers relying upon such rural Postal Service retail facilities and services is not market dominant.”⁷ Similarly, Mr. Popkin asserts that Parcel Post is not a competitive product, because “[w]hile many parcel post business users have daily UPS pick-ups, the ability of ‘Aunt Minnie’ to utilize a service other than the Postal Service’s parcel post product is greatly restricted.”⁸ Mr. Popkin supports this assertion by stating that “the number of facilities that the Postal Service has

⁵ Initial Comments of David B. Popkin, Transfer of Parcel Post to the Competitive Product List, PRC Docket No. MC2012-13, at 1 (May 30, 2012).

⁶ Public Representative Comments, *supra* note 3, at 2.

⁷ *Id.*

⁸ Initial Comments of David B. Popkin, *supra* note 5, at 1.

for the induction of a parcel into the system far exceeds the number of facilities that the private competitors have, particularly in rural areas.”⁹

First, the Postal Service does not believe that the amount of competition that Parcel Post faces is directly correlated to the number of UPS and FedEx retail locations. Notably, this correlation ignores the fact that, even in rural communities, both UPS and FedEx allow retail customers to schedule parcel pick ups.¹⁰ For instance, according to its website, UPS will pick up a package from Bison, SD (a community of 333 people)¹¹ even though the nearest UPS shipping outlet is 95.9 miles away.¹²

Further, neither the Public Representative nor Mr. Popkin provides any specific examples/research to suggest that rural customers are unable to induct their packages into the UPS or FedEx systems. Since 19 percent of the population of the United States resides in rural areas,¹³ one would expect that Parcel Post, a supposedly market-dominant product in rural areas, would account for more than 1.1 percent of the overall package market.¹⁴ Additionally, the Public Representative withdrew his own illustration, which mistakenly identified only 2 UPS/FedEx retail locations in South Dakota, and admitted that

⁹ *Id.*

¹⁰ Schedule a Pick Up, UPS.com, available at http://www.ups.com/content/us/en/resources/ship/how_to/pickup/index.html; Schedule a Pick Up, FedEx.com, available at <http://www.fedex.com/us/fcl/pckgenvlp/pickup/index.html>.

¹¹ American Factfinder, The United States Census Bureau, available at http://factfinder2.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=DEC_10_PL_GCTPL2.ST13&prodType=table. (Choose South Dakota in the drop-down window and scroll down to the town of Bison).

¹² After searching the UPS website, the Postal Service determined that the closest UPS retail location was a UPS Store in Dickinson, ND. The Postal Service was unable to schedule a pick up on the FedEx website, because a customer must first establish an online account.

¹³ 2010 Census Urban and Rural Classification and Urban Area Criteria, United States Census Bureau, available at <http://www.census.gov/geo/www/ua/2010urbanruralclass.html>.

¹⁴ See Request of the United States Postal Service, Transfer of Parcel Post to the Competitive Product List, PRC Docket No. MC2012-13, Attachment B, at 5 (April 26, 2012).

there “[w]ould likely be a significant measure of competition with the Postal Service in the parcel acceptance market...”¹⁵ in that state. Consequently, the Postal Service is not persuaded that Parcel Post is a market-dominant product in rural areas.

Moreover, the Postal Service does not believe that the determination of whether a product is competitive under 39 U.S.C. § 3642 should turn on that product’s competitiveness in specific regions of the country. Were the Commission to evaluate every transfer request based on this standard, no postal product could ever be classified as Competitive. Since the Postal Service has a more robust retail presence in rural areas than its competitors, the arguments that the Public Representative and Mr. Popkin raise are equally applicable to other competitive products. With respect to proving that a product fits within the Competitive category of products, 39 C.F.R. § 3020.32(d) only requires the Postal Service to demonstrate that it does not exercise:

[S]ufficient market power that it can, without risk of losing a significant level of business to other firms offering similar products: (1) Set the price of such product substantially above costs; (2) Raise prices significantly; (3) Decrease quality; or (4) Decrease output.

The Public Representative admits that the Postal Service met this standard by stating that “[c]ompetition in the ground package retail market has been demonstrated.”¹⁶

¹⁵ Errata to Public Representative Comments, Transfer of Parcel Post to the Competitive Product List, PRC Docket MC2012-13, at 1 (June 12, 2012).

¹⁶ Public Representative Comments, *supra* note 3, at 8.

II. The Public Representative's and Mr. Popkin's Concerns over the Filing of Service Performance Targets Under Seal are Misplaced.

Opposing the transfer of Parcel Post to the competitive product list, Mr. Popkin states that “transferring Parcel Post to the competitive product list will now allow the Postal Service to keep the compliance results of the service standards from being released.”¹⁷ Mr. Popkin goes on to state that “users of the service need to know how well the Postal Service is meeting the standards.”¹⁸ Though the Public Representative does not explicitly state it as a reason to oppose the transfer, he similarly points out that “[u]nlike for market dominant products, service performance targets and results for competitive products, if available to the Commission at all, would be considered commercially sensitive information and would be filed under seal.”¹⁹

At the outset, the Postal Service would like to note that the concerns that Mr. Popkin and the Public Representative raise would be applicable to all Competitive products. It is indeed a circular argument to suggest that Parcel Post should not be transferred, because the product would become subject to the Commission's reporting rules for competitive products. These rules merely recognize that the service performance results for competitive products are, by their very nature, commercially sensitive. Using this line of argumentation, it is hard to see how Mr. Popkin or the Public Representative could ever support the transfer of a product to the Competitive product list.

¹⁷ Initial Comments of David B. Popkin, *supra* note 5, at 1.

¹⁸ *Id.*

¹⁹ Public Representative Comments, *supra* note 3, at 2.

Moreover, users of the Competitive Parcel Post product will continue to have first-hand knowledge of whether it is meeting its service standard goals. As Mr. Popkin and the Public Representative are aware, customers receive information about their parcels' anticipated delivery dates from Postal Service clerks and Automated Parcel Centers prior to their purchase. If a competitive service routinely misses its targets, customers will be among the first to recognize the problem.

Finally, the Postal Service is not proposing to change Parcel Post's current service standards as part of this transfer request. As the Public Representative mentions, Parcel Post's service standard results will continue to be filed with the Commission under seal. Consequently, the Commission, as regulator, will continue to be aware of Parcel Post's service standard performance.

III. The Public Representative Incorrectly Suggests that the Price Increase for Parcel Post will Disproportionately Impact the Mailers of Higher Weight and Zone Parcels.

The Public Representative claims that “the potential for significant price increases in the heavier weight and higher zoned Parcel Post packages may significantly impact a number of users of the Parcel Post product.”²⁰ The Public Representative further states that “[i]ncreases on users in rate cells not capped by Priority Mail rates...may bear a larger share of the burden immediately and in the future if the transfer is granted.”²¹ These statements are supported by an

²⁰ *Id.* at 9.

²¹ *Id.*

excel workbook, which demonstrates the effect of price increases on particular price cells.²²

Though the Postal Service agrees that price increases for certain cells, especially those in lower weights and zones, will be constrained by Priority Mail prices, the Public Representative's methodology represents only one technique for achieving 100 percent cost coverage. Because the Public Representative's model is merely illustrative, his example cannot be used to conclude that the Postal Service will adopt a similar model. Factors such as price elasticity, volumes, and anticipated price increases for Priority Mail (which the Public Representative may not have considered), will affect the specific price changes that the Postal Service chooses to make. In any case, the Postal Service will work to ensure that the proposed price increase does not unduly impact any particular group of Parcel Post users.

IV. Mr. Popkin Incorrectly Calculates the Average Price of an Alaska Bypass Pallet.

In his comments, Mr. Popkin claims that the average price of an Alaska Bypass pallet is \$23.44.²³ Mr. Popkin arrives at this calculation by dividing Alaska Bypass' FY 2011 Revenue (\$29,555,000) into its FY 2011 volume (1,261,000).²⁴ Mr. Popkin then calculates the minimum price of a 1,000 pound pallet as \$332.14.²⁵ Mr. Popkin arrives at this calculation by dividing the 70

²² See Public Representative Comments, *supra* note 3, attachment *Necessary Price Increase.xls*.

²³ Initial Comments of David B. Popkin, *supra* note 5, at 2.

²⁴ *Id.* at 1.

²⁵ *Id.* at 2.

pound price for Zones 1&2 (\$23.25) by 70, and multiplying the result by 1,000.²⁶

Mr. Popkin uses these calculations to ask “how can one have an average price which is only 7% of the minimum value?”²⁷ Unfortunately, Mr. Popkin makes several understandable errors.

First, Mr. Popkin makes the error of assuming that the volume data reported by the Postal Service in Chairman’s Information Request No.1 (CHIR1),²⁸ represented the total number of Alaska Bypass pallets. Rather, the volume data reported by the Postal Service in CHIR1 represents the total number of 70 pound increments. Assuming that every pallet is 1,000 pounds, the actual number of pallets would be 18,016 ($1,261,138 \div 70$). Replicating Mr. Popkin’s calculation, the average price of an Alaska Bypass pallet would be \$1,640 ($29,555,000 \div 18,016$).

Additionally, Mr. Popkin uses an incorrect methodology to calculate the minimum price of an Alaska Bypass pallet. Under the correct methodology, the total weight of the pallet (1,000 pounds) would be divided by 70. The result ($1,000 \div 70 = 14.2857$) would be rounded down to the nearest whole number (14) and multiplied by the 70 pound rate for the appropriate zone ($14 \times \$23.25 = \325.50). The remainder (.2857) would be multiplied by 70 to determine the appropriate pricing zone for the remaining weight of the pallet ($.2857 \times 70 = 20$). The remaining weight (20 pounds) would be priced at \$12.33, the appropriate 20

²⁶ *Id.*

²⁷ *Id.*

²⁸ See Response of the United States Postal Service to Chairman’s Information Request No. 1, Transfer of Parcel Post to the Competitive Product List, PRC Docket MC2012-13, at file *Attachment1.xls*.

pound price for Zone 1&2. The resulting minimum price would be \$325.50 + \$12.33, which equals \$337.83.

V. The Public Representative Mischaracterizes the Postal Service's Evidence Concerning the Impact of the Transfer of Parcel Post to the Competitive Product List on Small Business Concerns.

The Public Representative criticizes the Postal Service's argument that the impact of a price increase on small businesses using Parcel Post will not be disproportionate.²⁹ In support of this argument the Postal Service states that only a small portion of Parcel Post volume (15 percent) is attributable to small businesses.³⁰ The Public Representative describes this evidence as "irrelevant," and states that "relevant evidence should go to the financial impact on small businesses."³¹ The Public Representative ultimately concludes that "[t]he Postal Service does not explain how a low percentage of small businesses making up Parcel Post customers is evidence that they will not see significant changes in their mailing options."³²

First, the Postal Service takes issue with the Public Representative's statement that relevant evidence should go to the financial impact on such entities. As the Public Representative admits "the financial impact on small businesses will vary considerably,"³³ and that "absent specific evidence or comments from small businesses...the impact on small businesses will be

²⁹ Public Representative Comments, *supra* note 3, at 10.

³⁰ Request of the United States Postal Service, *supra* note 14, at 9.

³¹ Public Representative Comments, *supra* note 3, at 10.

³² *Id.* at 10.

³³ *Id.* at 9.

difficult to measure.”³⁴ Moreover, 39 C.F.R. § 3020.31(h) requires the Postal Service to “provide a description of the *likely impact* of the proposed modification on small business concerns,” [emphasis added] a standard that encompasses more than financial impact alone. Given that the Postal Service is not privy to the financial condition of the small businesses that currently use Parcel Post, it is impossible for the Postal Service to offer the kind of evidence the Public Representative requests. Absent such information, the Postal Service offered the best evidence it had concerning the likely impact of the modification on small business concerns.

Additionally, the evidence that the Postal Service presented is entirely relevant to the likely impact of the proposed modification on small businesses. Given that small businesses represent a small (15 percent) portion of Parcel Post volume, and given that Parcel Post represents only 1.1 percent of the overall package market, it stands to reason that most small businesses are already using other shipping alternatives. Since most shipping alternatives are currently more expensive than Parcel Post, a price increase should not significantly change small business’ mailing options or their current shipping costs.

VI. Conclusion: The Postal Service’s Request Satisfies The Criteria Set Forth In Section 3642 For Transferring A Product From The Market-Dominant Product List To The Competitive Product List.

The Postal Service’s Request and these Reply Comments demonstrate why the transfer of Parcel Post from the market-dominant product list to the competitive product list would satisfy the applicable criteria set forth in section 39

³⁴ *Id.* at 10.

U.S.C. § 3642. In response to the Postal Service's Request, the overarching arguments raised by the Public Representative and Mr. Popkin have been that Parcel Post does not face competition in certain rural areas, and that the necessary price increase will unduly impact certain users. The Postal Service has demonstrated here, that the product faces competition in rural areas and that a price increase should not unduly impact any particular group of Parcel Post users. In addition, the Public Representative and Mr. Popkin raised several secondary concerns regarding the Postal Service's Request. The Postal Service has addressed those concerns herein. The Postal Service therefore asks that the Commission approve its Request to transfer Parcel Post to the Competitive Product list.

Respectfully submitted,

UNITED STATES POSTAL SERVICE
By its attorneys:

Daniel J. Foucheaux, Jr.
Chief Counsel, Pricing and Product Support

John F. Rosato

475 L'Enfant Plaza, S.W.
Washington, D.C. 20260-1137
(202) 268-8597; Fax - 6187
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